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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,865	10/25/2001	Stefan M. Pallazza	S63.2-9720	9976
490 7590 03/17/2008 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344				
EXAMINER NGUYEN, VI X				
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

09/682,865

## Applicant(s)

PALLAZZA, STEFAN M.

## Examiner

Victor X. Nguyen

## Art Unit

3734

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 14, 22, 25, 26, 28, 29 and 64-67 is/are pending in the application.
- 4a) Of the above claim(s) 10, 13, 15, 20, 21, 24-27 and 30-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 12, 14, 22 and 64-67 is/are rejected.
- 7) ☒ Claim(s) 7-9, 28-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,5,14 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Guiset (U.S.4,183,102).

Guiset discloses in Figs. 5-6, a device for configuring an inflatable balloon of a balloon catheter assembly having the limitations of the above listed claims, including: a body comprises a plurality of inflatable members (24) defining a channel (29), where the channel sizes to accommodate at least a portion of a balloon catheter (27), where each inflatable member has a balloon contacting portion (21). In fact, Guiset et al disclose in fig. 7, quite clearly, the inflatable members extends part of the way about the channel but does not encircle the channel, and where a housing 26 is able to constrain the plurality of inflatable members as the plurality of inflatable members would inherently inflate inwardly into the channel (see fig. 5).

Claims 1-6,11,12,14,22,64-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukashima et al. (U.S.5,350,361).

Tsukashima et al disclose a device for configuring an inflatable balloon of a balloon catheter assembly having the limitations of the above listed claims, including: a body comprises a plurality of inflatable members (30) defining a channel (44), where the channel sizes to

accommodate at least a portion of a balloon catheter (22), where each inflatable member has a balloon contacting portion (31). In fact, Tsukashima et al disclose in figs.7,9, quite clearly, the inflatable members extends part of the way about the channel but does not encircle the channel, and where a housing 40 is able to constrain the plurality of inflatable members as the plurality of inflatable members would inherently inflate inwardly into the channel (see fig.9). As to claims 2-6, 11-12,22 and 65-67, Tsukashima et al disclose the device comprises at least three inflatable members (fig.9). The inflatable members are tubular and have a circular cross section. The device further has a rigid tube (22). The tube has a first end with a first opening and a second end with a second opening that has a passage therethrough; and where the plurality of inflatable members are disposed in one spiral about the channel (figs.12), and where the inflatable members are generally tubular and have a generally wedge shaped (fig.8) where the balloon contacting portion is made of a compliant material and non-compliant materials such as latex, PET, Polyethylene or silicone (see col.4, lines 19-23), and where the body is disposed between first and second end supports, where the first and second end supports are joined by a plurality of connecting members that are spaced apart from the body .

***Allowable Subject Matter***

2. Claims 7-9 and 28-29 which depend on claim 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, alone or in combination, discloses all of the limitations of claim 7 including, the device further comprising first and second end caps, where the first end cap disposed at the first end of the tube across the

first opening and the second end cap disposed at the second end of the tube across the second opening, and where the inflatable members extend from the first and second end caps with the inflatable members in relative alignment with one another, the first and second end caps supporting the inflatable members.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

#### ***Response to Arguments***

3. Applicant's arguments filed 11/8/2007 have been considered but they are not persuasive.

In response to applicant's argument that Guiset does not teach that each inflatable member does not encircle the channel: It is noted that each inflatable 24 or 32 in fig. 5 definitely does not encircle the channel. In response to applicant's argument that Guiset does not teach that a plurality of inflatable members inflate inwardly into the channel: It is noted that fig. 5 of Guiset discloses the plurality of inflatable members 24 would inherently expand inwardly upon inflation along segment 24 and 31. Accordingly, the above noted reference is still considered to read on the claimed limitations of the claims noted.

#### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ho Jackie can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen  
Examiner  
Art Unit 3734

VN  
3/1/2008

/Julian W. Woo/  
Primary Examiner, Art Unit 3773